

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

HAYDEN SCOTT ROSE,

Plaintiff,

v.

PRESQUE ISLE VILLAS
CONDOMINIUM HOMEOWNERS
ASSOCIATION, INC.; PRESQUE ISLE
VILLAS CONDOMINIUM
HOMEOWNERS ASSOCIATION, INC.,
BOARD OF DIRECTORS;
COMMUNITY ASSOCIATION
MANAGEMENT, Ltd.; and BAGWELL
HOLT SMITH, P.A.;

Defendants.

Civil Action No. 1:22-CV-478

JOINT MOTION TO AMEND ORDER AND NOTICE OF TRIAL SETTING

The Parties hereby jointly move for an Order amending the Order (Doc. 30) and Notice (Doc. 33) to continue the pre-trial deadlines and the trial of this matter currently scheduled for the October 2, 2023, term to the next trial term. In support of their motion, the Parties state as follows:

Plaintiffs' Conflicts

1. Plaintiff's Counsel has been out of state for 2 weeks with a death in the family, and was required for funeral services.

2. Plaintiff's counsel is undergoing a complicated surgery on August 15, 2023. Counsel was informed on August 14, 2023, that he will likely need medication for pain for at least two weeks.
3. If any complications arise during the surgery this time could be extended.
4. Plaintiff will not be able to practice while on pain medication.

BHS Counsel's Conflicts

1. Counsel for Defendant BHS is scheduled for trial September 4, 2023 through September 29, 2023, in Anderson County, South Carolina.
2. Counsel's trial is a class action wherein there are currently over 50 individual defendant parties. Pursuant to the Judge's Order, counsel has no input into scheduling this matter, and the trial term is peremptory. Jury selection commences on September 4, 2023.
3. Counsel will be staying at a hotel in Anderson, SC, for the duration of this trial and will be unable to properly prepare the pretrial materials for this case.
4. Counsel's wife is a criminal defense attorney in South Carolina and is slated for court during the October 9 term of court, and as a result, counsel has no childcare options for the week of October 9, if he is trying a case in the Middle District.

Presque's Counsel's Conflicts

1. Counsel for the Presque Defendants has an out-of-state trial scheduled for the week of October 16, 2023.

Settlement Discussions

1. The Parties have reengaged in settlement discussions. While this matter impassed at mediation, the parties have made progress toward resolution of this matter.
2. Settlement negotiations are continuing and the Parties believe that given more time in which to discuss options, this matter may settle.

The Parties are not making this request lightly. This case has progressed and the Parties have cooperated with each other and have adhered to the schedule set by this Court. The instant motion is not for purposes of unreasonable delay, and all Parties believe continuing the pre-trial deadlines and this trial to a later term will allow each party to properly prepare and try this case, if necessary.

Accordingly, the Parties respectfully request that the dates set by the Order (Doc. 30) and Notice (Doc. 33) be continued to the next trial term or at a time of the Court's discretion.

Respectfully submitted
this 15th day of August 2023 by:

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Homeowners Association, Inc., Board of
Directors, and Community Association
Management, Ltd.*

CERTIFICATE OF SERVICE

I hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to counsel of record for all parties in this case.

15 August 2023

/s/Russell M. Racine

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